

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

_____)	
Investigation by the Department on its own)	
Motion into the Appropriate Regulatory Plan)	
to succeed Price Cap Regulation for Verizon)	D.T.E. 01-31 (Phase II)
New England Inc. d/b/a Verizon Massachusetts')	
intrastate retail telecommunications services)	
in the Commonwealth of Massachusetts)	
_____)	

**REPLY COMMENTS OF
VERIZON MASSACHUSETTS**

Verizon Massachusetts' ("Verizon MA") filing of May 1, 2003, complies fully with the Department's *Phase II Order* and should be approved. The only party to comment on the filing was AT&T, and it raises a single issue. AT&T alleges that Verizon MA's proposal for the regulatory rules governing retail Private Line services violates the *Phase II Order* because it gives Verizon MA the ability to restructure or decrease rates for those services. As discussed below, AT&T's position is without merit. The *Phase II Order* should not be construed, as AT&T suggests, to place Verizon MA in a straight-jacket concerning *all* future changes in Private Line rates.

ARGUMENT

The provision of the proposed Alternative Regulation Plan that AT&T challenges states:

Retail Private Line Services – Rates for retail Private Line services will be regulated. Except as provided in paragraph N below, prices for these services shall not be increased. Private Line services can be restructured and repriced within the overall pricing restriction. Any reduction in

prices must comply with the governing price floor requirements.

Verizon MA Phase II Compliance Filing, Alternative Regulation Plan, at § G. According to AT&T, the provision fails to comply with the *Phase II Order* because it enables Verizon MA to restructure Private Line rates or decrease them, whereas the Department ordered the rates to remain “frozen” until Verizon MA makes a showing that the services are sufficiently competitive. AT&T Comments, at 2. In particular, AT&T claims that if Verizon MA may reduce its Private Line rates, this “could place AT&T and other CLECs at a distinct competitive disadvantage in obtaining end users in the private line market.” *Id.*, at 3. AT&T’s reading of the order is overly restrictive, misapplies Department rulings in the case, and is not in the best interest of customers – a result the Department clearly did not intend.

First, the Department’s primary concern with Verizon MA’s initial proposal for Private Line pricing flexibility centered on price increases and the potential harm to retail consumers if competitors were unable to offer a competitive product. In its *Phase I Order*, the Department concluded that Private Line services were the retail equivalent of wholesale Special Access services that CLECs purchase to provide competing offerings and that the current rates for Special Access services created a potential price barrier to competitive entry. Based on this finding, the Department held that Private Line services were not now sufficiently competitive.¹ The Department noted that: “The record shows that because there is a significant cost differential between Verizon’s wholesale costs and

¹ As noted in our Phase I Compliance Filing of June 5, 2002, Verizon MA disagrees with the Department’s finding. Private Line services are competitive today and can be provided via unbundled network elements (“UNEs”). Verizon MA identified in Tab C of that filing its Private Line offerings and the UNEs that could be used by carriers to provide competing services. Verizon MA stated that it would further explain its position regarding the competitive nature of

potential entrants' wholesale costs, entrants may have difficulty exerting downward competitive pressure on Verizon's retail rates if Verizon *raises* retail prices above economically efficient levels." *Phase I Order*, at 61 (emphasis added). Thus, to protect retail consumers, the Department ruled that "Verizon will be granted *upward* pricing flexibility with regard to private line services only after special access services are moved to UNE-based pricing ..." *Id.*, at 91 (emphasis added); *see also id.*, at 62.

Although Verizon MA sought limited upward pricing flexibility of 15 percent annually in its Phase I Compliance Filing, the *Phase II Order* rejected that proposal. *Phase II Order*, at 23. The provision of the Alternative Regulation Plan quoted above fully satisfies the Department's concern by eliminating Verizon MA's ability to raise Private Line rates. Thus, the potential harm to retail consumers that was the Department's over-riding concern in the *Phase I Order* relating to Verizon MA's request for pricing flexibility has been fully addressed.

Second, Verizon MA's proposed pricing rule for Private Line services also fully satisfies any competitive concerns that may arise from price decreases for retail Private Line services. Verizon MA proposes that any Private Line rate restructuring or price decrease be subject to a price floor demonstration. This is the tool the Department has consistently used to ensure that competitors are not disadvantaged by such actions. Thus, AT&T's claim that the proposed rule may harm competitors is misplaced. Moreover, although there is language in the *Phase II Order* that could be interpreted to prohibit price decreases, such a restrictive reading makes no sense and would only operate to harm consumers without any corresponding benefit to competitors. Indeed, it is difficult

Private Line services and the ability of carriers to use UNEs to provide them in Phase II of the case or in a subsequent proceeding.

to discern any public policy reason for denying Verizon MA the ability to reduce retail Private Line rates if those rates cover the applicable price floor. While hamstringing Verizon MA would clearly benefit AT&T, it harms consumers and the competitive process – clearly not a result the Department intended.

CONCLUSION

For the reasons stated above, the Department should approve Verizon MA's May 1, 2003, compliance filing, including the terms relating to retail Private Line services.

Respectfully submitted,

VERIZON MASSACHUSETTS

Bruce P. Beausejour
185 Franklin Street
Boston, Massachusetts 02110-1585
(617) 743-2445

and

Robert N. Werlin
Stephen H. August
Keegan, Werlin & Pabian, LLP
21 Custom House Street
Boston, Massachusetts 02110
(617) 951-1400

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